

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: JUL 09 1993

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(5) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] under the provisions of General Laws, Chapter [REDACTED] in the State of [REDACTED].

The purposes for which the corporation is formed is as follows:

To develop and provide, on a not-for-profit cooperative basis, various programs, facilities and services for licensed commercial lobstermen and fishermen operating in the [REDACTED] area of [REDACTED], including, but not limited to:

- (1) Buying, leasing, taking by gift or otherwise, holding and operating, from time to time, property and facilities for the various cooperative purposes of the members of the corporation;
- (2) Developing and providing on a cooperative basis for the members of the corporation various facilities, such as:
 - (a) Facilities for docking, hauling, launching and storage of vessels, equipment and fishing gear and supplies of members;
 - (b) Services pertaining to cooperative buying of supplies, equipment, gear, vessels, and to cooperative selling of hard and soft shelled fish and of finfish caught or harvested by members;
 - (c) Ancillary business and professional services in support of their commercial lobstering and fishing operations;
- (3) Doing any other acts and things necessary or useful to provide cooperative benefits to members of the corporation.

The organization did not have any written bylaws at the time their Form 1024 was submitted.

The activities of the [REDACTED] consists of providing on a cooperative basis the following services: facilities for docking, hauling, launching and storing vessels, gear etc., the cooperative selling of fish, and finally, the provision of ancillary and professional services necessary to support fishing operations. The organization hopes to enable local commercial fishermen to reap the economic benefits resulting from group organization and larger economics of scale. The activities are geared toward helping local fishermen, primarily lobstermen, to maintain their presence in the [REDACTED].

Section 1.501(c)(5)-1 of the Income Tax Regulations describes organizations covered by Code section 501(c)(5) as labor, agricultural and horticultural organizations that have no net earnings inuring to the benefit of any member and have as their object the betterment of the conditions of persons engaged in those pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Agricultural and horticultural organizations are exempt as organizations described in section 501(c)(5) if no part of their net earnings inures to the benefit of any member and their objectives are the betterment of the conditions of members, the improvement of the grade of their products, and the development of higher efficiency. Agricultural organizations are those connected with raising livestock or crops, forestry, the cultivation of useful or ornamental plants, and similar pursuits.

The production of fish on privately-owned fish farms has been held to be an agricultural activity within the meaning of Internal Revenue Code section 501(c)(5). A farm is a facility used primarily for the raising of agricultural products. A facility in which fish are raised for sale is a "farm", however, ordinary commercial fishermen are not farmers as stated in Revenue Ruling 55-611, 1955-2 C.B. 270.

In Revenue Ruling 74-195, 1974-1 C.B. 135, an organization was organized and operated for the purpose of providing cooperative management, grazing and selling livestock for its members. It does not qualify for exemption as an agricultural organization. The organization provided a direct business service to its members.

[REDACTED] does not meet the definition of fish farming. Your organization's membership is not engaged in raising fish as a cash crop on farms. Your membership consists of licensed commercial fishermen/lobstermen from [REDACTED] and surrounding communities.

Like the organization described in Revenue Ruling 741-95, your organization is organized and operated primarily to provide a direct business service for the members' economic benefit. Your organization provides facilities, equipment and marketing services for the handling of members' products.

Your organization has failed to meet the requirements of section 501(c)(5) of the Internal Revenue Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(5) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

A solid black rectangular box used to redact the signature of the District Director.

District Director

Enclosure: Publication 892